International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Distr.: General
11 May 2018
English
Original: Spanish
English, French and Spanish only

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

List of issues prior to submission of the second periodic report of Paraguay*

Section I

A. General information

1. Please describe the main improvements in the implementation of the Convention since the issuance of the Committee's previous concluding observations (CMW/C/PRY/CO/1). Please indicate the progress made in following up on the Committee's recommendations through the SIMORE Plus recommendations monitoring system, specifying the rate of follow-up and the related indicators, including human rights indicators and subcategories concerning migrant workers and members of their families. Please provide information on the participation of civil society organizations in monitoring the recommendations, through the OSC-Plus platform, and in disseminating and promoting the Convention (CMW/C/PRY/CO/1, para. 23).

2. Please provide information on the content of the draft immigration bill that was submitted to Congress in August 2016 and indicate whether it includes provisions of the Convention in order to safeguard the rights of migrant workers. Information on the progress made by the legislature in debating and adopting the bill would also be appreciated.

3. Please report on the measures taken to ratify the International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No. 97), the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the ILO Private Employment Agencies Convention, 1997 (No. 181) (CMW/C/PRY/CO/1, para. 15).

4. Please explain what programmes are being carried out to provide training on the Convention for the general public and, in particular, for migrant workers and all officials whose work involves migration, labour, education, justice or health care, among other fields, including at the local level.

5. Please provide information on the inclusion of migrant workers and members of their families in the National Action Plan for the Rights of Persons with Disabilities. Please also describe the progress made in developing indicators on the rights of persons with disabilities and subcategories relating to migrant workers and members of their families.

6. Please provide information on the State party's independent mechanism for monitoring the human rights of all migrant workers and members of their families under the Convention. Please include information on complaint mechanisms and other services, such

* Adopted by the Committee at its twenty-eighth session (9–20 April 2018).

as helplines. Please indicate whether visits are conducted to places where migrant workers may be detained and to detention facilities and shelters for Paraguayan migrant workers abroad, including children, and state whether there is any monitoring of measures to repatriate migrant workers in the State party and of similar measures in countries of employment or transit. Please describe the human, technical and financial resources allocated to the mechanism and the activities carried out to bring the available services to the attention of the public in general and migrant workers in particular, especially at borders and by the consular and/or diplomatic authorities of the State party.

B. Information relating to the articles of the Convention

1. General principles

7. Please indicate whether the provisions of the Convention and the recommendations of the Committee have been directly applied by officials in the administration and/or invoked directly before the courts. If so, please provide examples. With reference to the Committee's previous concluding observations (CMW/C/PRY/CO/1, paras. 19 and 25), please provide information on:

(a) The judicial and administrative entities competent to examine and decide on complaints by migrant workers and members of their families, regardless of their immigration status;

(b) The number and types of complaints examined by such entities in the past five years and their outcome, disaggregated by sex, type of complaint and decision taken;

(c) Whether legal assistance was provided and, if so, whether by a public defender or by a lawyer working pro bono;

(d) Any redress, including compensation, provided to the victims of violations and/or to members of their families in the event of the death of the migrant worker concerned, including restitution, compensation, guarantees of non-repetition, rehabilitation or treatment and restitution;

(e) Any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

2. Part II of the Convention

Article 7

8. Please clarify whether the national migration policy ensures that all migrant workers and members of their families enjoy the rights provided for in the Convention without distinction of any kind and whether national legislation covers all the prohibited grounds of discrimination enumerated in the Convention. Please provide information on the measures taken to ensure non-discrimination, both in law and in practice, with regard to migrant workers and members of their families, including those whose immigration situation is irregular.

9. Please describe the steps taken with respect to the media, the authorities and the general public to prevent and eliminate the spread of negative stereotypes of migrant workers in the State party, in particular claims that they have access to employment to the detriment of Paraguayans or that they are to blame for increases in crime or violence in society.

3. Part III of the Convention

Articles 8–35

10. Please provide information on:

(a) Identified cases of exploitation of migrant workers and members of their families, whether in a regular or an irregular situation, in particular those working in agriculture or domestic service (CMW/C/PRY/CO/1, paras. 27 (a) and (b));

(b) Identified cases of domestic servitude, forced labour or sexual exploitation of migrant workers, including children, especially in the context of sex tourism, and measures to prevent and combat these phenomena;

(c) Measures taken to strengthen the labour inspection system and to bring national legislation into compliance with the ILO Forced Labour Convention, 1930 (No. 29), the ILO Abolition of Forced Labour Convention, 1957 (No. 105) and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

11. Please report on any measures to facilitate migrant workers' access to formal sector employment, decent wages, social security, regularization procedures and vocational training opportunities (CMW/C/PRY/CO/1, para. 27 (c)).

12. Please describe the measures taken to protect women migrant workers from violence, ill-treatment and/or sexual exploitation by their employers and to ensure that they have access to justice and to comprehensive protection measures. Please indicate what measures have been taken to ensure that women migrant workers, especially those employed in domestic service, have access to effective mechanisms for lodging complaints against their employers and that persons who abuse such workers are tried and punished (CMW/C/PRY/CO/1, para. 27 (d)). Please also provide information on any national processes for detecting exploitation and trafficking involving migrant women.

13. Please inform the Committee of any efforts made by the State party to protect the rights of migrant children who are unaccompanied or have been separated from their parents in the State party, their living conditions and whether they are obliged to work, with a view to preventing all forms of child labour and protecting the labour rights of adolescents of working age (CMW/C/PRY/CO/1, para. 29).

14. Please provide information on any measures taken to afford greater protection to migrant workers and members of their families in the Joint Task Force's area of operations. Please also describe the progress made in investigating cases involving the kidnapping or killing of migrant workers or members of their families in that area, the reparations provided to victims and any compensation or protection offered to the families of deceased migrants.

15. Please elaborate on the measures taken to cooperate with the Brazilian authorities and to find solutions to the problems that have arisen between Brazilian migrant workers and Paraguayan workers in the District of Ñacunday (CMW/C/PRY/CO/1, para. 31). Please also indicate what mechanisms are in place to ensure that there is no discrimination in the labour market in that area, without prejudice to workers' rights.

16. Please describe the situation of Paraguayan children who have remained in the State party while their parents are working abroad, particularly with respect to their family and educational environment and programmes for giving effect to their rights. Please specify whether the State party has conducted any studies in this regard with a view to developing care and protection measures and, where it is in the best interests of such children, facilitating family reunification.

17. Please indicate whether the State party has adopted due process safeguards or other measures to ensure the right to liberty of migrant workers and members of their families in the context of migration-related administrative procedures, including in respect of entry, residence and expulsion. Please provided disaggregated statistical data in this regard. Please indicate whether the State party detains migrant workers or members of their families for immigration-related matters. If so, please provide detailed information on the maximum permissible length of administrative detention prior to expulsion and on how the State party

ensures that migration-related detention is used only as an exceptional measure of last resort. Please also include information on whether:

(a) Persons detained for immigration reasons are held in separate facilities or together with convicted persons or persons awaiting trial;

(b) Measures are taken to ensure that, without exception, children and their families are not detained, including alternatives to detention that exist in the State party in law and in practice (with statistics). In cases in which alternatives are not used, please provide information on initiatives aimed at urgently abolishing child migration-related detention and on the grounds and conditions of detention, including whether children are separated from adults, and on measures taken to ensure that the best interests of the child are taken into account. Please indicate whether the role and responsibilities of institutions in charge of unaccompanied children are clearly defined and whether their independence and effective oversight are guaranteed;

(c) Women detained for immigration reasons are held separately from men who are not family members or partners, and are supervised by female personnel;

(d) Family-friendly facilities are provided for families where possible and appropriate;

(e) Victims of human trafficking, including witnesses, are identified and provided with protection;

(f) There are procedures in place to determine the best interests of the child in human rights-based return and reintegration procedures, starting abroad with consular assistance when a recommendation is made concerning the place to which the child should be returned, with the possibility for the child to be heard and to avail himself or herself of legal assistance and/or a guardian.

Article 16

18. Please indicate whether migrant workers and members of their families in the State party have effective access to the protection and assistance of the consular or diplomatic authorities of their State of origin, particularly in cases of arrest, detention or expulsion. Please also indicate how migrant workers who are deprived of their liberty are informed of their rights, especially in cases of expulsion from the State party.

Article 23

19. Please provide detailed information on:

(a) Any progress made in establishing specialized units within the consular or diplomatic authorities of the State party to provide services to Paraguayan workers living abroad;

(b) The policies and practices of the State party's diplomatic authorities, including its consulates and honorary consulates, for providing legal and other assistance to Paraguayan migrant workers and members of their families, including those in an irregular situation, and protecting their rights and due process guarantees, particularly in cases of abuse, arrest, detention or imprisonment, while they are awaiting expulsion in transit or destination countries, or when conditions of employment in the destination country are not met, including measures to ensure the return of belongings obtained abroad by migrant workers and members of their families and the issuance of electronic or other identity documents to Paraguayan migrant workers and members of their families;

(c) The training of consular staff, the hiring of officials specializing in vulnerability and the opening of new consular offices, with the aim, inter alia, of extending assistance to more destinations of the Paraguayan community and disseminating information about the Convention and the rights of all migrant workers and members of their families;

(d) The provision of assistance in Guaraní to migrant workers who use that language.

Articles 25–30

20. Please indicate what legal and labour protection and enforcement mechanisms are in place to ensure that migrant workers in either a regular or an irregular situation, particularly women and especially in sectors employing low-skilled workers, enjoy treatment that is not less favourable than that which applies to nationals in terms of remuneration and conditions of work. Please provide information on protection from dismissal, unemployment benefits, access to public work schemes for combating unemployment and access to alternative employment in the event of loss of work or termination of other remunerated activity. Please also include information on measures aimed at promoting the rights of Paraguayan migrant workers abroad, particularly women, including with respect to leadership, empowerment and initiatives led by associations of women migrant workers.

21. Please report on any firewalls that are in place to ensure that migrant workers, regardless of their immigration status, have access to a justice mechanism through which they may lodge complaints of trafficking, exploitation or persecution. Please explain what firewalls are in place to ensure that workers in an irregular situation are not expelled due to lack of documentation if they bring legal proceedings against their employer or any another person who has violated their rights.

22. Please indicate what measures have been taken to ensure that migrant workers can participate in contributory social security schemes and programmes.

23. Please provide information on the measures taken by the State party to ensure, in law and in practice, that all migrant workers and members of their families, including those in an irregular situation, have adequate access to health-care services, including urgent medical care (CMW/C/PRY/CO/1, para. 33).

24. Please provide detailed information on measures taken to increase the rate of civil registration, particularly the registration of foreign-born children of Paraguayan migrant workers. Please also describe the measures taken to facilitate the registration of foreign migrant workers and members of their families in the State party in cases where such individuals do not have identity documents.

25. Please provide information on the measures taken to ensure that the children of migrant workers have full access to education, regardless of their immigration status. Please include information on firewalls to ensure that schools are not obliged to report the immigration status of children to the authorities and on the documentation requested from the children of migrant workers in order to register or enrol them in educational institutions. Please also include information on school enrolment rates for migrant boys and girls, including those in an irregular situation (CMW/C/PRY/CO/1, para. 35).

26. Please provide information on the steps taken to expedite and ensure the effectiveness of procedures for sending and receiving remittances and to lower their cost (CMW/C/PRY/CO/1, para. 37). If possible, please provide the results of studies on or estimates of their amount, origin, destination (city or region) and manner of use/expenditure by the families of migrants in the State party.

4. Part IV of the Convention

Article 41

27. Please provide information on the mechanisms in place to ensure that Paraguayan migrant workers and members of their families living abroad are able to exercise their right to vote, including the consular facilities provided by the State party for timely voter registration and whether or not such persons can register to vote by presenting their passport. Please also provide information on the percentages of Paraguayan migrant workers and family members who register to vote and who participate in elections (CMW/C/PRY/CO/1, para. 39) and on initiatives to encourage them to participate in democratic processes.

5. Part VI of the Convention

Article 64

28. Please provide information on short-, medium- and long-term strategies at the national and local levels and on the measures taken, including consultations and cooperation with other States, to promote sound, equitable and humane conditions for the international migration of migrant workers and members of their families. Please include information on the results of the implementation of the Agreement on Residence for Nationals of States Parties of MERCOSUR and on the coordination of intraregional migration during harvest times. Please provide information on the channels and mechanisms established with civil society organizations to recalibrate migration policies and programmes to that end.

Article 67

29. Please inform the Committee of the steps taken by the State party to ensure that its consular services issue travel documents without delay to all Paraguayan migrant workers and members of their families, including those who wish to or must return to Paraguay (CMW/C/PRY/CO/1, para. 41).

30. Please provide information on the measures taken to allocate the necessary resources to the National Secretariat for Paraguayan Returnees and Refugees to enable it to carry out its work. Please provide information on the implementation of measures adopted at the national and local levels, including those carried out under the Paraguay 2030 National Development Plan, to facilitate the return of migrant workers and members of their families and to assist them in resettlement and reintegration into the economic and social life of the State party (CMW/C/PRY/CO/1, para. 43), especially migrants belonging to the groups identified by the State party: those living in extreme poverty; those affected by long-term unemployment; those with health problems; children in vulnerable circumstances; trafficking victims; and persons with family members deceased abroad. Please describe the cooperation programmes already in place between the State party and relevant States of employment for the voluntary return of migrant workers and members of their families to Paraguay, as well as the implementation of plans and programmes concerning the proposed public policy on social development for 2010–2020, which supplements the strategic economic and social plan for 2008–2013. Please include relevant data and statistics.

31. Please also report on any assessments of programmes to support repatriated migrant workers in establishing microenterprises or small or medium-sized businesses, and describe any means of providing such support that are not largely contingent on the amount of savings that each returnee has been able to accumulate.

Article 68

32. Please specify what policies, programmes and actions have been implemented to prevent and address the causes of irregular migration, particularly socioeconomic conditions, insecurity and various forms of violence, climate change and discrimination on grounds of sex, ethnic origin or other factors.

33. Please indicate what measures have been taken to ensure the implementation of legislation to combat human trafficking (CMW/C/PRY/CO/1, para. 45). In particular, please provide information regarding:

(a) The adoption of effective referral and identification mechanisms for victims of trafficking;

(b) Programmes intended to prevent human trafficking and offer effective protection for trafficking victims, and to ensure that victims have access to justice and legal remedies;

(c) Efforts made to effectively and impartially investigate, prosecute and punish all acts of human trafficking, and the number of judgments rendered in connection with this crime, including information on the number of convictions, the types of sentence handed down and the redress provided to the victims;

(d) Research conducted on the scale and causes of trafficking in women and children with a view to the development and implementation of a national policy to prevent and combat human trafficking;

(e) International, regional and bilateral cooperation with countries of origin, transit and destination aimed at preventing human trafficking through information exchange;

(f) Measures taken to provide adequate training and capacity-building for law enforcement officers, judges, prosecutors, labour inspectors, service providers, teachers, diplomatic and consular personnel and other relevant professionals in the State party;

(g) The budgetary and technical resources allocated to the above efforts;

(h) The possibility of trafficking victims being granted temporary or permanent resident permits.

34. Please explain what steps the State party has taken to protect the rights of indigenous migrant workers at the border with the Plurinational State of Bolivia, including Bolivian nationals who enter Paraguay and Paraguayan nationals who work in the Plurinational State of Bolivia and cross the border every day (CMW/C/PRY/CO/1, para. 47).

Article 69

35. Please describe the efforts made to formulate and implement a comprehensive migration regularization policy that is accessible to all migrant workers and members of their families in an irregular situation and which satisfies the principle of non-discrimination. Please inform the Committee about the types of residence permit available in the State party and the procedure for applying for them. Please provide statistical data from 2012 onwards, disaggregated by nationality, sex, age and migration status, on residence permits granted, including those granted under the Agreement on Residence for Nationals of States Parties of MERCOSUR of 2002, which the State party has ratified.

36. Please indicate what measures have been implemented to ensure regular, safe, accessible and affordable channels for migration through the progressive expansion of visa liberalization and easily accessible visa facilitation regimes and/or schemes, such as refugee resettlement programmes, complementary protection, temporary protection, humanitarian visas, visitor, family reunification, work, resident, retirement and student visas, and private sponsorship programmes.

Section II

37. The Committee invites the State party to provide information (in no more than three pages) regarding the protection of migrant workers and members of their families with respect to the following:

(a) Bills or laws, and their respective implementing regulations;

(b) Institutions and their mandates, and institutional reforms undertaken since 2012 (for instance with regard to the mandate and activities of the General Directorate for Migration);

(c) Policies, programmes and action plans covering migration, and their scope and financing;

(d) Recent comprehensive studies on the situation of migrant workers and members of their families;

(e) Mechanisms in place to facilitate access to public information on migration and the rights enshrined in the Convention.

Section III

Data, official estimates, statistics and other information, if available

38. Please provide qualitative and statistical information on the progress achieved in respect of the Migration Information and Data Analysis System (MIDAS) and its extension to additional border posts in the country.

39. Please provide updated disaggregated statistical data and qualitative information for the past five years on:

(a) The volume and nature of labour migration flows to and from the State party since the publication of the Committee's previous concluding observations;

(b) Migrant workers who are nationals of the State party and are detained abroad in a country of transit or of employment, in particular for immigration-related offences;

(c) Migrant workers and members of their families who have been expelled or deported from the State party, and the reasons for these expulsions and deportations;

(d) The number of unaccompanied migrant children or migrant children separated from their parents in the State party;

(e) Remittances received from nationals of the State party working abroad, in numbers and as a percentage of the gross domestic product;

(f) Reported cases of migrant trafficking and smuggling, and investigations, prosecutions and sentences imposed on the perpetrators (disaggregated by sex, age, nationality and purpose of trafficking);

(g) The number of people turned away at ports, airports and land border crossings, disaggregated by year, nationality, sex and age, and the reasons for their being turned away;

(h) Legal assistance services provided to migrant workers and members of their families in the State party and to nationals working abroad or in transit through third States;

(i) The approximate number of persons in an irregular situation.

40. Please provide additional information on any important developments that have taken place and on measures to implement the Convention that the State party considers a priority, including progress towards making the declarations provided for in articles 76 and 77 of the Convention, whereby it would recognize the competence of the Committee to receive communications from States parties and individuals (CMW/C/PRY/CO/1, paras. 12 and 13)

41. The Committee may take up all aspects of the rights of migrant workers and members of their families in the Convention during the dialogue with the State party.